

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-054305

07/21/2011

HONORABLE LINDA H. MILES

CLERK OF THE COURT
L. Crawford
Deputy

BIG EYE CAPITAL INC

DENNIS L HALL

v.

FIREROCK INTERNATIONAL GROUP INC

HEATHER MUIR HENDRIX

MINUTE ENTRY

Courtroom 106 – NE

8:40 a.m. This is the time set for telephonic Status Conference. Appearing telephonically on behalf of Plaintiff Big Eye Capital, Inc. is counsel, Dennis L. Hall. Appearing telephonically on behalf of Defendant Firerock International Group, Inc. is counsel, Heather Muir Hendrix.

A recording of this proceeding is being made by audio and/or videotape in lieu of a court reporter.

Yesterday morning the Court received by fax Plaintiff's Motion to Reschedule Return Hearing and Request for Expedited Consideration. Mr. Hall advises that this Motion was filed on July 19, 2011. On July 20, 2011, the Court received from Defendant a 76 page Notice entitled "Notice re: Continued Hearing on Emergency Petition for Order to Show Cause; Notice of No Objection to Plaintiff's Motion to Reschedule Return Hearing." Late on July 21, 2011, the Court received another document from Plaintiff entitled "Plaintiff's Motion to Strike Defendants Notice re: Continued Hearing, et al."

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Discussion commences regarding the issues raised in above-referenced documents.

The Court notes that contained within Defendant's Notice re: Continued Hearing on Emergency Petition for Order to Show Cause; Notice of No Objection to Plaintiff's Motion to Reschedule Return Hearing (hereinafter "Notice") is what is effectively a request for a temporary restraining order. To the extent that Defendant's "Notice" requests a temporary restraining order or other restraining order,

IT IS ORDERED denying Defendant's request for failure to comply with Ariz.R.Civ.P., Rule 65.

The Court notes that although Plaintiff requested a continuance of the return hearing set at 10:00 a.m. this morning in the Motion to Reschedule, the subsequent Motion to Strike Defendant's Notice re: Continued Hearing, et al. requests that the hearing be vacated. The Court further notes that no where in the substance of the Plaintiff's Motion to Strike Defendants Notice re: Continued Hearing, et al., other than the title, is the striking of Defendant's "Notice" requested. Further discussion is held regarding whether the return hearing scheduled for July 21, 2011 at 10:00 a.m. should be continued or vacated.

The Court interprets Plaintiff's Motion to Strike Defendants Notice re: Continued Hearing, et al. as a Motion to Vacate Return Hearing Set at 10:00 a.m. on July 21, 2011. Defendant's Emergency Petition for Order to Show Cause, filed on June 16, 2011, seeks an order from this Court requiring the Plaintiff to immediately deliver stock certificates to the transfer agent, Corporate Stock Transfer. Plaintiff's counsel has avowed to this Court that the transfer of the stock certificates has taken place. In light of transfer of the stock certificates,

IT IS ORDERED granting Plaintiff's Motion to Strike Defendant's Notice re: Continued Hearing, et al. (i.e. Motion to Vacate Return Hearing Set at 10:00 a.m. on July 21, 2011), and vacating the Return Hearing re: Defendant's Emergency Petition for Order to Show Cause set on July 21, 2011 at 10:00 a.m.

Plaintiff's Motion to Reschedule Return Hearing and Request for Expedited Consideration is now moot and no further is taken on this Motion.

8:56 a.m. Matter concludes.

LATER:

The evidentiary hearing set on May 26, 2011 was vacated by minute entry dated May 25, 2011. Plaintiff's exhibit numbers 1 through 56 and Defendant's exhibit numbers 57 through 63

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were marked for identification for that evidentiary hearing. There being no further need to retain the exhibits currently in the custody of the division clerk,

IT IS ORDERED that the Clerk permanently release Plaintiff's exhibit numbers 1 through 56 and Defendant's exhibit numbers 57 through 63 to the counsel causing them to be marked.

IT IS FURTHER ORDERED that counsel/party or written designee shall have thirty (30) days from the date of this minute entry to take possession of the exhibits from the Division Clerk (602-372-7729); thereafter, the Clerk is authorized to dispose of the exhibits without further notice.

ALERT: eFiling through AZTurboCourt.gov is mandatory in civil cases for attorney-filed documents effective May 1, 2011. See Arizona Supreme Court Administrative Orders 2010-117 and 2011-010. The Court may impose sanctions against counsel to ensure compliance with this requirement after May 1, 2011.